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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,583	08/16/2001	Paul W. Reece	36-1474	2915
23117	7590	10/24/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			NGO, NGUYEN HOANG	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,583

Applicant(s)

REECE, PAUL W.

Examiner

Nguyen Ngo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This communication is in response to the amendment of 8/8/2005. All changes made to the specification and claims have been entered. Accordingly, Claims 1-8 are currently pending in the application.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Examiner believes that the title is too broad.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Civanlar et al. (U.S. 5,995,606), hereinafter referred to as Civanlar.

Regarding claim 1, Civanlar discloses a method of operating a client-server network, which enables the establishing of a connection over the Internet between a client and a server (a method of operating a communications network and terminal connected thereto (client and server terminals), col2 lines 41-45). Civanlar further discloses;

establishing a connection between the client and the server over the internet (establishing a data flow (connection) between a customer terminal (client) and another data terminal (server), the data flow conforming to a best-effort packet-routing protocol (Internet) col4 lines 53-55 and 301 and 302 of figure 3).

of a client apparatus which makes a service request that requires a service functionality of a switched network connection (subsequently initiating from the customer terminal (client) the use of a switched virtual circuit (switched network) through the network for the data flow, col4 lines 55-57 and 303-308 of figure 3) and establishing a connection for exchange of data over the switched network (col5 lines 44-48).

that only when a user at a client apparatus connects to a server through the Internet and requests service the requires enhanced functionalities offered by the switched network does a connection through the switched network is established (wherein only when and if the user subsequently elects to initiate the use of a switched virtual circuit does the network change the routing method for data flowing to or from the customer terminal, col3 lines 20-25).

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Regarding claim 4, as already mentioned, discloses the best-effort packet routing protocol be the Internet (col2 line 34 and 150 of figure 1).

Regarding claim 5, as already mentioned, discloses that the public switched network can be an ATM network (col2 line39).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 2,3,6, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Civanlar et al. (U.S 5,995,606), hereinafter referred to as Civanlar.

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Regarding claim 2, with respects to the limitation of communicating to the customer terminal data indicating the availability of a switched virtual circuit in the network for the said data flow prior to step b of claim 1. Civanlar discloses that prior to the public switch connection, which the Examiner interprets as use of a switched virtual circuit, for such service requests, the server may initiate a call connection over the public switched network, and deliver information for the requested service (col3 lines 31-35). Civanlar however is silent as to, specifically indicating the availability of the connection. To include such "indication of availability" in the delivery of information for the requested service would have been obvious to one of ordinary skill as it is well-known and recognized in the art to include the "indication of availability" in such information.

Regarding claim 3, with respects to the limitation of the said data indicating availability of a switched virtual circuit comprises a URL having the format specific to resources located on a circuit-connected network. Civanlar discloses that the access by a client apparatus to a server via the Internet utilizes the Hyper Text Transport Protocol (HTTP), which is accessed using a Mosaic application program available at the client apparatus (col4 lines 38-42). Civanlar however is silent as to indicating the availability of a switched virtual circuit comprising a URL. However it is clearly known that the URLs have the basic from: "protocol://server/request-URI". That the protocol part describes how to tell the server, which document the one may want and how to retrieve it. The server part tells the browser which server to contact, and the request-URI is the name used by the server to identify the data. The HTTP protocol is based on a

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request/response paradigm. It would have thus been obvious to a person skilled in the art to provide the information, including the "indication of availability" as mentioned above in claim 2, as data comprising a URL since Civanlar discloses the utilization of HTTP.

Regarding claim 6, with respects to the limitation of the terminal including a packet data interface for connection to a communication network, Civanlar discloses that each client requires two logical network interfaces and that one of these interfaces provides a connection to the Internet (col2 lines 60-64), analogous to a packet data interface, and the second interface provides a connection to a public switched telephone network (col3 lines 4-5). With respect to the limitation for initiating a switched virtual circuit in the communication network, which switched virtual circuit, in use, provides a circuit-connected path for packet data communicated via the said packet data interface, Civanlar further discloses the use of Mosaic of the World Wide Web, which provides a window-based program that provides the user easy access to various services over the Internet (col2 lines 53-55). As already mentioned, Civanlar discloses that the client apparatus connects to the server through the Internet and may request a service connection offered by the public switched network (col3 lines 20-24) and that the client can provide the necessary information that it needs to process the service request (col5 lines 11-16) for initiating the connection to the server. Civanlar however is silent on how the client provides such information needed to process the service request, but it is

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obvious that one may use the PC (Mosaic) and the Internet interface to initiate the service connection, analogous to a circuit-connected path for data communication.

Regarding claim 7, Civanlar further discloses the system of figure 1 enables a plurality of client computer-based apparatus to access a plurality of servers (col3 lines 17-19), analogous to the limitation of a communication network including one or more terminals.

Regarding claim 8, Civanlar discloses a client-server network, which enables interconnection to both the Internet and switched network (a communication network for use in a method according to claim 1). Civanlar further discloses;

the client apparatus including an internet interface which provides a connection to the Internet (a customer terminal (client) connected thereto including a packet data interface (internet interface) for connection to the communication network, col2 lines 60-64 and 102 of figure 1).

of a service request requiring Internet access to obtain a client's login/password, phone number, billing account and other information deemed necessary to properly process the service request from the server (means for initiating a switched virtual circuit (service request for switch network) in the communication network, which switched virtual circuit, in use, provides a circuit-connected path for packet data communicated (establishment of connection for server/client exchange data over switched network, col5 lines 1-30).

that only when a user at a client apparatus connects to a server through the Internet and requests service the requires enhanced functionalities offered by the switched network does a connection through the switched network is established (wherein the network is arranged such that only when and if the user elected to initiate the use of a switched virtual circuit does the network change the routing method for data flowing to or from the customer terminal, col3 lines 20-25).

Civanlar however fails to disclose that this means for initiating a switched virtual circuit be done via said packet data interface. Civanlar does however disclose that the service request requires Internet access to the server, and thus it should be obvious to a person skilled in the art that the Internet interface is needed for the service request through the internet (initiating a switched virtual circuit (switched network with better functionality then the internet) via packet data interface (internet interface), col5 lines 30-31 and figure 3 and figure 1).

Response to Arguments

8. Applicant's arguments filed 8/8/2005 have been fully considered but they are not persuasive.

9. The applicant argues that the cited reference from the first action does not provide any teaching or suggestion of inhibiting the network from setting up cut-through unless a user specifically requests it. However, given the citation set forth in the rejection of claim 1, col3 lines 20-25, "that only when a user at a client apparatus

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connects to a server through the Internet and requests service the requires enhanced functionalities offered by the switched network does a connection through the switched network is established", the examiner interprets the service request for the switch network to correlate to applicant's argument of setting up cut-throughs wherein only when the user subsequently elects to. Applicant further argues that with such an arrangement, the network operator will easily be able to charge for such cut-throughs being made, similar to Civanlar teachings of billing for information delivery and service provided by the server. Applicant also states on page 5, lines 22-25 that a customer may choose to initiate an SVC cut-through in order to access Video on Demand similar to Civanlar teachings of having an enhanced service request be a request for real-time video transmissions (col3 lines 24-30).

10. The applicant further argues that the present invention as claimed, comprises only a single network which changes from operating according to a packet based on routing method to operating according to a circuit switched method, but only if specifically requested to do so by the user (as already discussed above with regards to service request by user, col3 lines 20-25). Applicant however states on page 3 of the specification that the single network 4 be comprised of a first subdomain 4a that is part of the public Internet and a second subdomain 4b that is a ATM network and is further shown through figures 2-5 of having a global network with subdomains (Internet and ATM network). The Examiner thus interprets the Internet and Switched network disclosed by Civanlar to be two sub-domains constituting a single global domain similar

to Applicants disclosure of the network in figures 1-5. It is further noted that figure 2 of the Applicant disclosure showing different phases in the process of establishing a SVC to be similar to Civanlar's disclosed figure 2.

Conclusion

11. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen Ngo whose telephone number is (571) 272-8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

N.N.

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